

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES, *et al.*,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

No. 1:23-cv-00108-LMB-JFA

**NON-PARTY CRITEO CORP.’S OBJECTIONS TO THE PUBLIC USE OF
CONFIDENTIAL MATERIALS**

Pursuant to this Court’s order, ECF No. 871, non-party Criteo Corp., by and through its undersigned counsel, files its objections to the public use of the following exhibits identified on Plaintiffs’ and Defendant’s Trial Exhibit Lists, all of which were designated Highly Confidential under the applicable Protective Order, on grounds that the redacted materials constitute trade secret (“TS”) and competitively sensitive (“CSI”) information, as further detailed below and in Criteo’s Motion to Seal, filed concurrently herewith. Criteo further objects to the public disclosure of the materials below to the extent they are not relevant to any claim or defense in this litigation (“FRE 401, 402”). In accordance with the Court’s order, Criteo has also prepared proposed acceptable redacted versions of these exhibits, filed concurrently herewith.¹

¹ As noted in the chart below, Criteo produced voluminous, transaction-level trading data in this litigation, which date back to as early as 2010 and run through 2023. The parties have included these datasets in their Exhibit Lists as PTX1763, PTX1771, and DTX1703. Because of the nature and volume of this information, it is not feasible to redact portions of these materials in a manner that would permit public disclosure. Criteo objects to the public use of these datasets to the extent either party seeks to introduce any of them in their entirety. To the extent the parties intend to use such datasets or portions thereof to compile demonstratives or other exhibits, Criteo reserves its right to object such materials.

Tr. Ex. No.	Beg Bates No. ²	Document Description	Objection
Pl.s' Am. Trial Exhibit List, ECF No. 920-2			
PTX1561	0000015509	Criteo presentation re “Training DFP for CDB”	CSI & TS: redacted material includes confidential pricing information, including incremental pricing and target pricing ranges; confidential trading parameters applicable to different campaign levels; proprietary code drafted by Criteo’s engineers; and confidential case study discussing the technical specifications and performance of a campaign transitioned from real time auction to Criteo Direct Bidder.
PTX1763	0000000761	Criteo transaction-level trading data	CSI: these data sets include granular, transaction-level trading information over the course of years, which could be used by Criteo’s competitors to anticipate Criteo’s bidding practices and strategy.
PTX1771	0000015578	Criteo transaction-level trading data	CSI: these data sets include granular, transaction-level trading information over the course of years, which could be used by Criteo’s competitors to anticipate Criteo’s bidding practices and strategy.
Def.’s Trial Exhibit List, ECF No. 894			
DTX360	CRI-00000104	December 2016 presentation re “Strategic Guidelines Note”	CSI: redacted material includes confidential return on investment per class of clients and target margin information; Criteo’s confidential customer impact rate and win/loss information; Criteo’s performance trends by product line; and representative customer lists.
DTX374	0000015400	January 2017 presentation re “Criteo Direct Bidder (BD Training v1)”	CSI: redacted material includes detailed information regarding challenges to Criteo’s business that persist to this day, the strategies Criteo has employed to respond to these challenges and their performance/efficacy, and a case study examining same.
DTX679	0000000295	March 2019 presentation “Sponsorship Priority Training for BD’s”	CSI: redacted material reflects confidential trading specifications and case studies identifying particular client campaign successes and discussing the client-negotiated bidding parameters, technical specifications,

² Unless otherwise indicated, the Bates prefix for each of these documents is “CRITEO_GOOGLELIT_.”

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			and performance of Criteo Direct Bidder campaign and product, including graphs and charts demonstrating outcomes of such campaign.
DTX1396	0000011698	November 25, 2022 responses to the department for competition of the European Commission questionnaire re “Google - Adtech and Data-related practices”	FRE 401, 402; CSI; TS: the redacted material in these responses include detailed information regarding Criteo’s bidding practices and strategy, challenges Criteo faces when bidding, and the internal procedures and algorithms Criteo has developed in an attempt to address such challenges and the efficacy of such responses. The responses further detail how Criteo’s adaptations to its bidding strategy in response to such challenges has impacted Criteo’s profitability, and remaining issues Criteo continues to confront. All of this information could be used by Criteo’s competitors to predict or co-opt Criteo’s bidding strategy, or exploit the challenges Criteo faces to its competitive detriment. ³
DTX1475	0000006967	IPONWEB presentation re “PDG Update Q1 2023 - Tech/Product Workshop February 2023”	CSI: redacted material includes IPONWEB’s confidential revenue information, itemized by revenue stream and target revenues by revenue and product stream, as well as future strategic initiatives and proposed key performance indicators, time lines, and cost targets for achieving same.
DTX1544	0000000693	Presentation re “BSW Product Proposals_forward planning (April2022)”	CSI: redacted material includes BidSwitch’s analysis of critical threats to its business and outlines key performance indicators, time lines, and cost targets for achieving future strategic initiatives.
DTX1545	0000000729	Criteo “Margin Targets Discussions from Q4 2022”	CSI: the redacted material includes Criteo’s target margins for new and current customers by product. Such information could be used by Criteo’s competitors to anticipate Criteo’s

³ Although there are references to “non confidential” replies in this document, that was not intended as an admission that the material is not competitively sensitive or a waiver of Criteo’s confidentiality protections. Rather, such responses were given for the limited purpose of disclosure to other parties in the proceedings, subject to the protections and limitations on such responses’ use, including the protections provided under Article 8 of the Terms of Reference. *Hearing Officers – Frequently Asked Questions, Question 9. How is the protection of my confidential information ensured?*, European Commission, https://competition-policy.ec.europa.eu/hearing-officers/faq_en (last visited July 25, 2024).

Tr. Ex. No.	Beg Bates No. ²	Document Description	Objection
			bidding practices, and unfairly impact Criteo's negotiations with its customers if publicly disclosed.
DTX1546	0000000754	Presentation re "Understanding our Non-Second Price Bidder"	FRE 401, 402; CSI; TS: the redacted material in this document includes detailed information regarding Criteo's bidding practices and strategy, including the algorithmic formulae and models Criteo has developed to implement its bidding strategy.
DTX1702	0000000286	Presentation re "Sponsorship Priority"	CSI: redacted material reflects confidential trading specifications and case studies discussing the client-negotiated bidding parameters, technical specifications, and performance of Criteo Direct Bidder campaign and product.
DTX1703	0000015579	Criteo transaction-level trading data	CSI: these data sets include granular, transaction-level trading information over the course of years, which could be used by Criteo's competitors to anticipate Criteo's bidding practices and strategy.
DTX1981	NA	Israel Report Table 14: Criteo U.S. Web Non-Video Display Ad Spending by Exchange, 2022	CSI: This figure details Criteo's spending by dollar amount and percent of spending by exchange for each exchange through which Criteo bids, which provides key insights into Criteo's bidding practices that can be used by competitors to Criteo's disadvantage.

Dated: July 26, 2024

/s/ Jonathan R. DeFosse

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